

COUNCIL/ADMINISTRATIVE POLICY

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| Subject: Gifts | Policy No: 20-3 | Date: October 11, 2011 |
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1. PURPOSE

To outline employee responsibilities regarding the acceptance of any gift including tickets or passes (referred to within this Policy as “gift”) of any kind from individuals, businesses or organizations doing business with, seeking to do business with or seeking permits or other entitlements from the City.

The Fair Political Practices Commission (FPPC) Regulation 18944.2 addresses when a payment that would otherwise constitute a gift to a public official constitutes a gift to the public agency instead. In order to address this regulation, Section 4, Gifts to the City, of this Policy is in effect for the Mayor, Council, Commission and Committee members, as well as employees. FPPC Regulation 18944.1 regulates when cities may accept ticket or passes and when they constitute gifts. Section 5 of this Policy complies with regulation 18944.1.

The City strives to provide impartial and exceptional customer service. Gifts can be perceived as attempts to influence City operations and can erode the public confidence and the impartiality of decisions made by employees. It is important to avoid the appearance of impropriety.

If there is conflict, between this policy and the FPPC Regulations which govern gifts to public employees, the more stringent control must be followed.

2. DEFINITIONS

- 2.1 Gifts are defined as anything of value (including meals) for which you have not provided equal or greater value in return. A gift includes a rebate or discount in the prices of anything of value unless the rebate or discount is made in the regular course of business to members of the public or private businesses.
- 2.2 Receipt or acceptance of a gift is defined, except as noted below, as when you know that you have actual possession of the gift or when you take any action exercising direction or control over the gift. Discarding or turning a gift over to another person does not negate the receipt or acceptance of the gift.

3. POLICY

- 3.1 All employees are required to follow the FPPC regulations, as amended from time to time, for accepting and reporting gifts. Fair Political Practices Commission Form 700 - Statement of Economic Interests must be completed and submitted to the City Clerk as may be required by the City’s Conflict of Interest Resolution.
- 3.2 All employees (other than Police Department employees; see section 3.3.4 below) are prohibited from receiving gifts totaling more than \$100 from any single source in a calendar year. Exceptions are as follows:
 - 3.2.1 Gifts that were not used and which, within 30 days after receipt, were returned to the donor or delivered to a charitable organization without being claimed by the recipient as a charitable contribution for tax purposes.

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- 3.2.2 Gifts from your spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, aunt, uncle, niece, nephew or first cousin, or the spouse of any such person. The exception does not apply if the donor was acting as an agent or intermediary for a reportable source who was the true donor.
- 3.2.3 Gifts of hospitality involving food, drink, or occasional lodging provided in an individual's home when the individual or a member of the individual's family was present.
- 3.2.4 Gifts of similar value exchanged between an employee and an individual, other than a lobbyist (an individual who is compensated and communicates directly with legislative or state agency officials to influence legislative or administrative action on behalf of his or her employer or a client), on holidays, birthdays, or similar occasions.
- 3.2.5 Gifts of informational material provided to assist an employee in the performance of their official duties (for example, books, pamphlets, reports, calendars, periodicals, or educational seminars).
- 3.2.6 A bequest or inheritance.
- 3.2.7 Personalized plaques and trophies with an individual value of less than \$250.
- 3.2.8 Campaign contributions.
- 3.2.9 Gifts given to members of the employee's immediate family unless the employee enjoys a direct benefit of the gift, use of the gift or exercises discretion or control over the use or disposition of the gift. (See FPPC regulation 18944.)
- 3.2.10 Food, beverages, and necessary accommodations provided directly in connection with an event at which the employee gave a speech, participated in a panel or seminar, or provided a similar service.
- 3.2.11 Payments received under a government agency program or a program established by a bona fide charitable organization exempt from taxation under section 501(c)(3) of the Internal Revenue code designed to provide disaster relief or food, shelter, or similar assistance to qualified recipients if such payments are available to members of the public without regard for official status.
- 3.2.12 Leave credits, including vacation sick leave, or compensatory time off, donated to an employee or official in accordance with a bona fide catastrophic or similar emergency leave program established by the city and available to all employees in the same job classification or position. (This does not include donations of cash.)
- 3.2.13 The following gifts are not subject to the \$100.00 limit and may be accepted.

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3.2.13.1 Wedding gifts.

3.2.13.2 A prize or award received in a legitimate competition, such as a raffle, not related to the employee's status as a City employee.

3.2.14 Tickets and passes that are deemed not to constitute gifts under section 5 below.

3.3 All Police Department employees are prohibited from receiving gifts.

3.4 No employee shall solicit a gift or donation of any kind from individuals, businesses or organizations doing business with, seeking to do business with or seeking permits or other entitlements from the City other than:

3.4.1 The Parks and Recreation Commission as authorized in Municipal Code Section 2.46.020 (E) Powers and Duties.

3.4.2 The Arts Commission as authorized in Municipal Code Section 2.44.020 (D) Powers and Duties.

4. GIFTS TO THE CITY (FPPC 18944.2) EXCLUDING TICKETS AND PASSES

4.1 A gift to a public official may be considered a gift to the City instead if the following requirements are met:

4.1.1 The City Manager or designee must determine and control the City's use of the gift.

4.1.2 The payment must be used for official City business.

4.1.3 The donor may identify a purpose for the gift but may not designate by name, title, class or otherwise, an official who may use the gift.

4.1.4 The City Manager, City Attorney, elected officials and those who invest public monies cannot use gifts provided to the agency for travel, including transportation, lodging and meals.

4.2 Travel payments must also meet these requirements:

4.2.1 A payment to the City for travel may not be used by the Mayor or City Councilmember.

4.2.2 A payment for travel may not exceed the City's own reimbursement rates for travel.

4.2.3 The City Manager or designee must preapprove travel paid for by a third party before travel commences.

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- 4.2.4 Travel payments made by a federal government agency in connection with education, training, or other inter-agency programs are not reportable.
- 4.3 An FPPC Form 801 must be completed by the City Clerk to disclose payments of \$50 or more made to the agency when the payments provide a personal benefit to an official of the agency.
 - 4.3.1 FPPC Form 801 must be completed and posted on the City's website within 30 days of the use of the gift.
 - 4.3.2 FPPC Form 801 must be provided to the FPPC and the filing officer who receives employees' statements of economic interests within 30 days after use of the gift.

5. TICKETS/PASSES (FPPC 18944.1)

- 5.1 All tickets and passes (defined as admission to a facility, event, show or performance for entertainment, amusement recreational or similar purpose) offered or provided to the City by a third party or purchased or otherwise obtained directly by the City shall be subject to the following provisions:
 - 5.1.1 The City shall not accept from any third party any ticket or pass that is specifically earmarked for use by a particular City Elected or Appointed Official or Employee ("City Official") whether by name or position unless:
 - 5.1.1.1 The ticket or pass is offered or provided to the City pursuant to the terms of a contract for use of City owned property.
 - 5.1.1.2 The ticket or pass is offered or provided to the City as a result of an official City event that the City controls.
 - 5.1.1.3 The ticket or pass is purchased by the City from the third party for full market value.
 - 5.1.2 The City Manager or his or her designee shall document in writing the receipt of all tickets and passes provided to the City by a third party.
 - 5.1.3 Tickets and passes shall only be provided to City Officials by the City Manager or his or her designee for a legitimate public purpose of the City, as set forth in this section.
 - 5.1.4 The City Manager or his or her designee shall decide, consistent with the Policy, which City Officials should be provided with a ticket or pass.
 - 5.1.5 Within thirty (30) days of distributing any ticket or pass pursuant to this Policy, the City Manager or his or her designee, shall complete and cause to be posted an FPPC Form 802 on the City's website, with such posting to remaining on the website for a period of at least four (4) years and a hard-copy of said form shall be retained for a minimum of seven (7) years.

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- 5.2 Any ticket or pass provided to a City Official by the City shall not constitute a gift if provided and used by the City Official for any of the following public purposes:
- 5.2.1 Promotion of business activity, development, and/or redevelopment within the City.
 - 5.2.2 Promotion of community or City resources and programs.
 - 5.2.3 Promotion of City facilities.
 - 5.2.4 Promotion of City growth and development.
 - 5.2.5 Promotion of City tourism on a local, state, national or worldwide scale.
 - 5.2.6 Promotion of City recognition, visibility and/or profile on a local, state, national or worldwide scale.
 - 5.2.7 Promotion of open government by City Official appearances, participation and/or availability at business and/or community events.
 - 5.2.8 Promotion of the improvement of inter-governmental relations.
 - 5.2.9 Attendance at events sponsored by other governmental agencies, industry groups and non-profit organizations for the purpose of meeting and conferring with other governmental officials or business representatives regarding issues of interest to, or affecting, the City.
 - 5.2.10 Increasing public exposure to, and awareness of, the various recreational, cultural, and educational venues and facilities available to the public within the City.
 - 5.2.11 Encouraging or rewarding significant academic, athletic, or public service achievements by City students, residents or businesses.
 - 5.2.12 Recognizing contributions made to the City by former or current City Council members or other City employees.
- 5.3 The following tickets and passes shall be exempt from the provisions of this Policy:
- 5.3.1 A ticket or pass received by a City Official directly from a third party that the City Official uses to perform a ceremonial role or function on behalf of the City or to represent the City in an official capacity.
 - 5.3.2 A ticket or pass received by a City official from the City where both the City Official and the City treat and report the value of the ticket or pass as income consistent with applicable state and federal income tax laws and the ticket is reported as income pursuant to the provisions of this Policy.

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- 5.4 A City Official who receives a ticket or pass pursuant to this Policy is prohibited from transferring or selling the ticket or pass to any other person, except to a member of the City Official's immediate family solely for their personal use.

6. DISSEMINATION OF POLICY

- 6.1 A copy of this policy will be provided to each employee, the Mayor, Council, Commission and Committee members including all new employees. It is each individual's responsibility to seek clarification, if necessary, for their complete understanding of the Policy.
- 6.2 All employees must acknowledge receipt of this policy by signing the Acknowledgment of Receipt Form attached.

7. POSTING AND DISCLOSURE REQUIREMENTS

This Policy shall be prominently posted on the City's website.



ACKNOWLEDGEMENT OF RECEIPT

**Gift Policy
Policy No. 20-3
Dated October 11, 2011**

My signature below is confirmation that I have received a copy of the Gift Policy No. 20-3 and that I understand that it sets forth the City's policy with respect to Gifts. The Policy outlines responsibilities regarding the acceptance of any gift of any kind from individuals, businesses or organizations doing business with, seeking to do business with or seeking permits or other entitlements from the City.

I understand that this policy is intended to supplement other City personnel policies that govern rules of conduct and performance in the workplace. I further understand and agree that it is my responsibility to read and familiarize myself with the provisions of this policy.

Signature

Print Name

Date